



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2022-0293; FRL-9653-01-OGC]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (CAA or the Act), notice is given of a proposed settlement agreement in *Genscape, Inc. v. EPA*, No. 19-3705 (6th Cir.). On July 26, 2019, Petitioner Genscape, Inc. (Genscape) filed a petition for review in the United States Court of Appeals for the Sixth Circuit. Genscape challenged the final action of the Environmental Protection Agency (EPA or the Agency) entitled “EPA Final Determination in the Matter of Genscape, Inc., Option A Quality Assurance Plan Auditor Under the Renewable Fuel Standard Program” (“Final Determination”), which was issued on May 31, 2019. The proposed settlement agreement would require dismissal of the litigation once EPA issues a revision to the Final Determination as specified in Attachment A.

DATES: Written comments on the proposed settlement agreement must be received by

[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2022-0293, online at <https://www.regulations.gov> (EPA’s preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action.

Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Additional Information about Commenting on the Proposed Settlement Agreement” heading under the **SUPPLEMENTARY**

INFORMATION section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov>, as there may be a delay in processing mail and faxes. Hand-deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

EPA continues to carefully and continuously monitor information from the CDC, local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID-19.

FOR FURTHER INFORMATION CONTACT: Susan Stahle, Air and Radiation Law Office (mail code), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone (202) 564-1272; email address stahle.susan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Settlement Agreement

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2022-0293) contains a copy of the proposed settlement agreement.

The electronic version of the public docket for this action contains a copy of the proposed settlement agreement and is available through <https://www.regulations.gov>. You may use <https://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search.”

II. Additional Information about the Proposed Settlement Agreement

On May 31, 2019, EPA issued the Final Determination in which it (1) revoked Genscape's registration as a Quality Assurance Plan (QAP) auditor pursuant to 40 CFR 80.1450(g)(11); (2) revoked Genscape's QAP A Plan under 40 CFR 80.1469(e)(4); and (3) required Genscape to replace the remaining invalid A-RINs it had verified and that were used for compliance purposes pursuant to 40 CFR 80.1470(d) and 80.1474(b)(5)(i). On July 26, 2019, Genscape filed a petition for review in the Sixth Circuit Court of Appeals challenging only the portion of the Final Determination requiring Genscape to replace the invalid RINs. The proposed settlement would require dismissal of this litigation once EPA issues a revision to the Final Determination as specified in Attachment A within 30 days of a fully executed settlement agreement. The revision to the Final Determination would be limited to revisions addressing the number of RINs Genscape must replace, the time in which they must be replaced and other requirements regarding that RIN replacement. Genscape would file an appropriate pleading to dismiss its petition for review with prejudice within 15 days of EPA issuing the revision to the Final Determination.

If Genscape fully complies with the revised Final Determination, it would fulfill Genscape's RIN replacement obligations under and bring Genscape into compliance with 40 CFR 80.1470 and 80.1474 regarding the auditing activities described in the Final Determination and would fully resolve all RIN retirement obligations of Genscape and its parent companies identified in the proposed settlement agreement arising from the Final Determination. If Genscape fails to comply with any requirement in the revised Final Determination, EPA would reserve the right to initiate proceedings to enforce that action. If EPA fails to issue the revisions to the Final Determination, Genscape would be able to pursue its challenge to the original Final Determination.

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed settlement agreement. EPA or the Department of Justice may withdraw or withhold

consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

III. Additional Information about Commenting on the Proposed Settlement Agreement

Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2022-0293, via <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information

provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the <https://www.regulations.gov> website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

Gautam Srinivasan,

Associate General Counsel.

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